

Union of India and Others

Vs

Iqbal Singh

Civil Appeal No. 1223 of 1972

(CJI A. N. Ray, M. H. Beg, R. S. Sarkaria, P. N. Shinghal JJ)

10.12.1975

JUDGMENT

BEG, J. -

1. The Union of India and the Commissioner of the Rehabilitation Department of the Government of India are the appellants before us after certification of this case, under Article 132(1)(a) of the Constitution. It involves a consideration of the meaning of some rules framed under Section 40 of the Displaced Persons (Compensation and Rehabilitation) Act 44 of 1954 (hereinafter referred to as 'the Act').

2. The respondent Iqbal Singh, a displaced person from Rawalpindi, in West Pakistan, had a verified claim assessed at over Rs. 32 lacs from compensation under the Act. His uncle, Jai Singh, had also a verified claim assessed at Rs. 26,06,413. On November 21, 1952, Jai Singh executed a will under which he gave various legatees, including the respondent, shares in the compensation which was due to be paid to him. Jai Singh died on February 7, 1953. In an inquiry under Section 9 of the Act the respondent was held to be a beneficiary under Jai Singh's will to the extent of 19% of the amount due to be paid of Jai Singh. The Assistant Settlement Officer, however, clubbed together the individual claim of over Rs. 32 lacs of Iqbal Singh respondent, and the share of Rs. 4,95,028 as legatee in the separate claim of Jai Singh. He then awarded the maximum compensation of Rs. 2 lacs under Rule 16 which says :

16. Scale of compensation. - Compensation shall be payable in accordance with the scale specified in appendices VIII or IX as the case may be.

3. Appendix VIII is the relevant appendix giving percentages of the assessed claims which were to be paid as "Compensation" for the verified claims ranging from Rs. 500 to Rs. 18 lacs and above. The maximum prescribed for Rs. 18 lacs and above is Rs. 2 lacs as "compensation". Thus, no claimant could get more than that as compensation whatever to the amount at which his claim was assessed. The result of clubbing together by the Assistant Settlement Officer was that the respondent was not to get more than Rs. 2 lacs even though his own claim as compensation was for that much so that he was, if this decision was correct, to be totally deprived of his share in the legacy left by his uncle. His case is that he is entitled to Rs. 2 lacs on his claim of Rs. 32 lacs, and, in addition, to his share of 19% also as a legatee of the will relating to the amount which was payable to Jai Singh deceased as claimant. The character of the first was "compensation" and of the second was that of a "legacy" under a will.

4. In appeal, the Assistant Settlement Commissioner accepted the respondent's case, by order dated

July 29, 1957, and directed that the respondent's claim be paid separately from the share in the claim he was entitled to as a beneficiary under the will mentioned above.

5. On April 26, 1957, the Regional Settlement Commissioner, however, revised the order of the Assistant Settlement Commissioner and held that the respondent could not, under the existing rules, get any share of compensation separately as a legatee out of the estate of Jai Singh.

6. The respondent appealed to the Settlement Commissioner who agreed with the Regional Commissioner. The Central Government also rejected a revision petition of the respondent under Section 33 of the Act.

7. The respondent then filed a writ petition before the Circuit Bench of the Punjab High Court which came up finally before a Division Bench of the Delhi High Court and was allowed. Orders of the Central Government and the Settlement Commissioner were quashed and the order of the Assistant Settlement Commissioner was restored by the High Court.

8. It has been urged on behalf of the appellant that the High Court overlooked the scheme of the Act and misinterpreted the relevant rules. The main contention advanced by Mrs. Shyamla Pappu, appearing on behalf of the appellant, is that the whole purpose of the Act was to compensate and rehabilitate individual displaced persons with a maximum limit imposed on what could be awarded to a displaced person for this purpose. It is urged that the respondent could not obtain more than the maximum amount prescribed by Appendix VIII under Rule 16. It is submitted that the combined effect of Rules 16 to 21, interpreted in the light of the scheme of the Act, is that the amount of compensation payable to an individual cannot in any case, exceed Rs. 2 lacs. Rule 21 is especially relied upon. It says :

21. Mixed claims. - Where a person holds a number of verified claims in different capacities, the total compensation payable to him shall be determined in accordance with the provisions of Rules 18, 19 and 20.

9. It is true that the Act is intended for payment of compensation for rehabilitation of displaced persons and matters connected therewith. There is, however, nothing in the Act to prevent a claimant from making a gift or a will in respect of the amount he may be entitled to get. No provision of the Act takes away rights of transfer of or inheritance to verified claims. Nothing like an abatement or extinction of a claim by the death of the claimant is provided for by the Act. Inheritance to and devolution of rights of claimants are clearly beyond the purview or scheme of the Act. They are untouched by the provision of the Act and are governed by other provisions of law. The statutory rights of claimants to compensation, which crystallize on assessment and verification of claims, are separate rights to property of each claimant covered by the wide definition of "property" in Section 6 of the Transfer of Property Act. They cannot evaporate or vanish suddenly with the death of claimant. Rules framed under Section 40 of the Act to be and are those reasonably necessary for carrying out the purposes of the Act. They cannot go beyond the objects for which they can be framed. Those objects are confined to determination and payment of compensation for what was left in Pakistan and do not extend to deprivation of anything acquired in India in capacities other than those relevant for purposes of compensation.

10. In the instant case, the right of the respondent as a legatee under the will of Jai Singh was recognised separately proceedings under Section 9 of the Act. The respondent thus acquired a right which was different in character from his claim as a displaced person. After having gone through

the Rules 17 to 20, we are unable to construe Rule 21 as an authority for clubbing together of a claim as well as a separate right of a claimant as a legatee under a will which is distinct from the displaced person's claim to compensation as a displaced person. The right of such a legatee stands on a different footing from a claim made under Section 4 of the Act for payment of compensation or a rehabilitation grant. The amount of compensation or a rehabilitation grant is payable to a displaced person under the provisions of the Act. A dispute decided under Section 9 of the Act is very different in character from a claim for compensation or rehabilitation as a displaced person. It could relate to a right by inheritance to or by succession under a will of another claimant. But, each person has to be paid separately as indicated by Rule 17.

11. Great reliance was placed on Rule 18 on behalf of the appellants. This rule lays down :

18. Compensation to be determined on the total value of all claims. - For the purpose of determining the compensation payable to an applicant, the Regional Settlement Commissioner shall, except as otherwise provided in these rules, add up the assessed value of all claims of the applicant in respect of all kinds of properties, other than agricultural land situated in a rural area, left by him in West Pakistan and the compensation shall be assessed on the total value of all such claims.

This rule shows that only different kinds of claims of each displaced person in properties left by him in West Pakistan which can be clubbed together. It does not deal with rights or claims of another genus which may devolve upon a claimant in his capacity as an heir or a legatee of another displaced person who may have acquired a separate right of his own as a claimant to compensation under the Act. Clubbing together of "claims" in different kinds of properties has reference to an individual's claim to "compensation", and rehabilitation and not to claims of different displaced persons which could, by transfer or devolution, vest separately in an individual.

12. Rule 19 deals with compensation payable to joint families and Rule 19A prescribes maximum amounts payable in such cases. Rule 19B refers to compensation ordinarily payable of karts of joint families. Rule 20 provides for the assessment of compensation of a co-owner. These are the different types of claims of the same displaced person in different capacities as claimant, in each capacity, to compensation due to himself alone. There is no provision for clubbing together of compensation to different displaced persons each with a right of his own except as members of joint families, which are treated as legal entities by themselves. The rights of a successor of another displaced person are outside the rule. There is nothing in the Act or the rules framed thereunder to conflict with this natural and ordinary interpretation of fairly clear and simple language used.

13. The judgment of the Division Bench of the Delhi High Court (H. R. Khanna, C. J. and S. N. Shankar, J) by which the writ petition of the respondent was allowed, shows that it had been conceded in the High Court, on behalf of the Rehabilitation Department, that Rule 18 would not apply to the case of the respondent before us. The Division Bench had relied upon an earlier decision of the Punjab High Court in *Karam Singh v. Union of India* (ILR (1964) 1 Punj 742) where, upon similar facts, it had been held :

It is significant that in Rule 18 it is clearly stated that the compensation has to be determined on the total value of all claims pertaining to properties left by a claimant in West Pakistan. Therefore it is the property left by the petitioner to which he can make a claim. The property left by his uncle cannot be said to be the property left by him within Rule 18. Properties left by a joint family are properties which the claimant, who claims to be a member of the joint family, can properly be said

to have left in West Pakistan. Though the capacity in which he held those properties and so also in the case or properties held by his as a co-sharer with other persons is different from the capacity in which the properties left by him in West Pakistan in his personal and exclusive occupation are concerned. This cannot be said to be the case where he gets the property of another displaced person by reason of inheritance or by transfer. The capacities contemplated by Rule 2 are set out in Rules 21 are set out in Rules 18, 19 and 20 and in any case have to be analogous to them.

14. We find ourselves in entire agreement with the view adopted by the Division Bench of the Delhi High Court and dismiss this appeal with costs.

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